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# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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**Committee against Torture**
**Sixty-third session**

**Summary record of the 1617th meeting**
Held at the Palais Wilson, Geneva, on Tuesday, 24 April 2018, at 10 a.m.

*Chair:* Mr. Modvig

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention**

*Eighth periodic report of Norway* (CAT/C/NOR/8 and CAT/C/NOR/QPR/8)

1. *At the invitation of the Chair, the delegation of Norway took places at the Committee table.*

2. **Mr. Kleppen Sættem** (Norway) said that the Government was grateful for the involvement of civil society in ensuring compliance with the Convention. The National Human Rights Institution, which enjoyed category A status, played a key role in public debate on human rights issues and had submitted two annual reports to Parliament since its establishment. The creation of the national preventive mechanism had led to improvements in conditions of detention in Norway. Thanks to the work of those two bodies, progress had been made in reducing the use of police custody cells for pretrial detention beyond the 48-hour limit. Following an increase in prison capacity and the introduction of new procedures, the number of breaches of the time limit had dropped from 4,250 in 2013 to 639 in 2017.

3. An increased focus on young offenders had led to a reduction in the number of children held in police custody, from 632 in 2014 to 365 in 2017. The number of children imprisoned had also fallen, from 64 in 2010 to 25 in 2017. Two permanent units had been created to accommodate young offenders.

4. In 2017, Norway had ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention). The Director of Public Prosecutions had undertaken a large-scale study of criminal investigations of rape cases as part of efforts to improve the way they were handled. The study had found that police interviews had reached a higher standard.

5. In response to the Committee's previous concerns, the authorities had begun to compile statistics on the use and length of solitary confinement. The data showed that challenges remained regarding the isolation of prisoners with mental health problems. The Health Care Act had been amended in September 2017 to address concerns about the use of coercive measures in the mental health care sector. As a result, patients who had the capacity to consent could no longer be hospitalized or treated against their will unless there was a serious risk to their life or health or those of others. Other amendments to the Act included an entitlement to five hours of free legal assistance for patients who had received treatment to which they had not consented.

6. A legislation committee had been appointed to assess, inter alia, the use of electroconvulsive therapy (ECT) on patients without their consent. The Supervisory Commissions had been given responsibility for ensuring the legality of the use of such treatment. From May 2018, statistics would be collected on non-consensual use of ECT. The Government had allocated funding of 15 million kroner to a study on the use of involuntary measures and was developing an online training programme on relevant legislation and ethics to upgrade the knowledge of health professionals.

7. The disappearance of unaccompanied minors from asylum reception centres remained a challenging issue. With the number of cases continuing to rise, the Government had responded by providing funding for more staff at the centres and accelerating the procedure for resolving the situation of unaccompanied minors whose identity was in doubt.

8. **The Chair** (Country Rapporteur) said that the Committee wished to encourage the State party to amend its definition of torture to bring it into line with that contained in the Convention. It was unclear why the State party did not intend to incorporate the Convention as a whole into its domestic legislation.

9. It would be useful to receive data on the degree to which fundamental legal safeguards, including access to a lawyer from the outset of deprivation of liberty and to a doctor upon request, were applied in practice.

10. With regard to minors, it would be helpful to receive clarification of which situations might fall under the "wholly extraordinary circumstances" referred to in

paragraph 11 of the State party's report as justifying the preventive detention of juveniles. The Committee would welcome an annual breakdown of how many minors had been placed in preventive detention. It would also appreciate the delegation's comments regarding the impact of the Juvenile Sentence and Juvenile Follow-up measures and on whether there were any plans to further reduce the number of juveniles receiving custodial sentences.

11. He would appreciate clarification of whether the shortage of pretrial detention slots in prisons was the reason why so many detainees spent longer than 48 hours in police custody. He would welcome an update on whether any of the measures listed in paragraph 19 of the State party's report had been implemented as part of efforts to reduce the effects of isolation resulting from being held in police custody. It would be interesting to learn whether the Government was considering amending its legislation to ensure that detainees did not spend more than 48 hours in police custody under any circumstances.

12. He would be grateful for information on the measures and safeguards in place to ensure that persons with mental health conditions who were placed in isolation during pretrial detention were provided with adequate treatment. He wished to hear whether the Government had any plans to establish more rigorous criteria for the use of pretrial isolation.

13. He would welcome the delegation's comments on the figures provided by the State party, which appeared to show that in 2015 prisoners had been placed in solitary confinement for more than 42 days on 70 occasions. It would be useful to learn whether persons placed in solitary confinement in the State party had access to a health-care professional on a daily basis. If that was the case, he would be grateful for details of the number of times medical personnel had requested the discontinuation of solitary confinement out of concern for a prisoner's health. Clarification would be welcome regarding whether prisoners with mental health conditions were exempt from solitary confinement. Despite the enactment, in March 2017, of revised guidelines on solitary confinement, it appeared that use of the measure had increased. It was unclear how the guidelines had been implemented in practice and why there had not been a decrease in the use of solitary confinement. He would appreciate details of the Government's position regarding the establishment of full compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

14. He asked how many minors had been placed in isolation in 2016 and 2017, and whether the authorities, which should be independent, reviewed cases of isolation before or after the period of isolation. Data would be appreciated on the number of cases of isolation per year that had been identified as unjustified and interrupted by the authorities at regional and national level. He would like to know whether persons sentenced to solitary confinement could submit a complaint on that decision to the prison management; whether the review of such complaints had a real impact on the placement of a person in isolation or whether they were processed after the placement; and whether complainants risked paying court fees in the event that they lost the case. Statistics would also be appreciated on the number of complaints regarding isolation filed per year, the average processing time and the outcomes of those complaints.

15. Turning to violence against women and children, he asked whether information was available on the results of measures taken to address such violence; whether violence against older persons, the Sami and children had decreased, and, if not, how that shortcoming would be addressed. He asked whether there were plans to review the legal distinction between rape and non-consensual sexual activity in order to ensure that the crime of rape was punished proportionately, and what would be done to ensure that allegations of rape were investigated rigorously, particularly given that the Norwegian authorities had recognized the inadequacy of the situation. He wondered what criteria formed the basis for reports of improvements in police interview techniques and whether detainees' opinions had been taken into account in that respect.

16. With regard to trafficking in persons, he would like year-on-year data, covering the reporting period, on the numbers of minors who disappeared from centres for asylum seekers and those who were subsequently found. He asked what happened to such minors

when they disappeared, whether they became involved in crime and were subjected to trafficking and abuse, and what the reasons were for some minors leaving voluntarily.

17. Further information would be appreciated concerning mental health care in all prison facilities. He asked what follow-up had been given to the Cramer study on the mental health of convicted persons, what recommendations had derived from that study and whether they had been implemented. Reports by the national preventive mechanism of ill-treatment of detainees with mental illness were a serious concern and persons with severe mental disorders should be removed from isolation and provided with the necessary treatment as a matter of urgency.

18. Recalling that the State party was obliged to make data available to the Committee for the purpose of its consideration of the report, he asked whether data was available under the new reporting format for registering decisions on the use of coercion in electronic patient medical records. He also requested data on the use of restraints and enforced medication. He would like to know in which circumstances the use of electroconvulsive therapy (ECT) was used and to have data in that regard. Why was the provision for patients to appoint an individual in advance to make decisions on their behalf if necessary not included in the proposed amendments to the Mental Health Care Act, aimed at strengthening patients' rights of due process?

19. Turning to article 3 of the Convention, he asked to which countries the persons not accounted for in paragraph 95 of the report were deported and whether some persons were deported despite a risk of being subjected to torture upon return. He asked whether the absence of data concerning asylum requests that had been granted on the grounds of a risk of torture was due to the authorities' lack of knowledge of such risks. He requested information on the procedures for identifying victims of torture and assessing the risk of torture, and wondered why the outcome of those procedures was not available in data form. Regarding legal aid, could the delegation confirm that the figures provided related to legal aid for asylum seekers and foreign nationals facing expulsion or deportation? He would like additional information on the criteria for detaining asylum seekers, the current number of detained asylum seekers and the safeguards extended to detained asylum seekers. Lastly, he asked which recommendations of the 2011 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had been implemented.

20. **Mr. Hani** (Country Rapporteur) asked whether the training for police in new arrest techniques had helped to reduce the numbers of deaths following arrest and whether police training was also provided regarding the provisions of the Convention. Could the delegation supply information on the follow-up given to the administrative assessments conducted in relation to the deaths, which were not due to suicide, in connection with arrests and detention in police custody during the four-year period 2012–2015, as well as details on similar cases from 2016 to date? He asked whether there had been cases of prison staff using physical force in violation of the Regulations to the Execution of Sentences Act, which set out that the use of force had to be necessary and justifiable, and, if so, what penalties had been imposed. With regard to the case that had been dropped relating to the death of a person who had been held in a neck restraint by an ambulance staff member, he asked what lessons the State party had drawn from that incident particularly regarding the use of neck restraints by medical and law enforcement officials.

21. He asked what evaluation criteria were in place to determine the effectiveness of police training. In the light of reports highlighting the lack of knowledge among staff regarding the Istanbul Protocol, he asked how many officials, particularly health professionals, judges and lawyers, had received training on the updated guide of the Directorate of Health, and how training in the Istanbul Protocol was ensured for health professionals. He would like information on access for asylum seekers to health care provided by professionals trained in the Istanbul Protocol and competent in detecting signs of torture. He asked what accounted for the failure to implement certain of the recommendations of the national preventive mechanism and how the Government envisaged giving effect to those, as well as the recommendations of the National Human Rights Institution.

22. He requested clarification on the figures provided in paragraphs 122 and 123 of the report regarding the length of detention for persons held at the immigration detention centre at Trandum. Further details would be appreciated on reports by the national preventive mechanism on the excessive use of force by prison officers, especially the systematic use of handcuffs during the transfer of prisoners and a case in which pepper spray was used against a detainee. He asked how the Government ensured that the use of force by the authorities was strictly necessary and proportionate, and that body searches were conducted so as to respect detainees' inherent right to be treated with dignity and humanity.

23. Expressing concern at the significant number of persons held in de facto solitary confinement following arrest, he asked what measures had been taken to limit the length of pretrial detention in police cells and increase the number of dedicated remand facilities. Updated statistics on the use of police cells for pretrial detention, including the number of persons held in police custody for periods longer than 48 hours, would be useful in that regard.

24. Concerning access to appropriate health-care services for detainees with psychosocial disabilities, he wished to know what measures had been taken to limit the use of coercive force and obtain the full consent of the individual prior to treatment. He also enquired whether efforts had been made to provide alternatives to imprisonment for persons with serious mental illnesses.

25. Noting the low number of sanctions handed down by the Norwegian Bureau for the Investigation of Police Affairs, he asked what steps had been taken to strengthen investigations into complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and to increase the prosecution rate. Given the significant number of alleged cases of discriminatory treatment based on ethnicity, he also wished to know what steps had been taken to ensure that the data collected by the Norwegian Bureau for the Investigation of Police Affairs included the ethnicity or nationality of complainants. What system was in place to provide reparations, rehabilitation and protection from reprisals for victims of torture or ill-treatment committed by law enforcement officers?

26. Updated information on the investigation into the two cases of suicide in police custody occurring in 2012 and 2015 would be welcome. He would also appreciate further clarification of the State party's participation in the global initiative to develop a universal set of standards for non-coercive interviewing methods, pursuant to the recommendation of the former Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan Méndez.

27. Regarding the transfer of Norwegian prisoners to the Norgerhaven prison in the Netherlands, he asked what efforts had been made to uphold the Norwegian Government's extraterritorial responsibility for the prisoners' welfare and ensure that Dutch prison officers fully complied with Norwegian legislation.

28. Welcoming the recent accomplishments of the National Human Rights Institution and the national preventive mechanism, he asked whether additional financial, material and human resources would be made available to further strengthen the capacity of the two entities. It would also be interesting to know whether the State party intended to increase its contributions to the United Nations Voluntary Fund for Victims of Torture.

*The meeting was suspended at 11.40 a.m. and resumed at 11.55 a.m.*

29. **Ms. Belmir** asked what measures had been taken to eliminate the discriminatory treatment of young refugees and asylum seekers at the police immigration detention centre in Trandum. She also wished to know what steps had been taken to prevent the disappearance of unaccompanied minors from the centre.

30. **Mr. Heller Rouassant** said that he would appreciate an update on the case of Anders Breivik following allegations that his detention conditions amounted to inhumane and degrading treatment in violation of article 3 of the European Convention on Human Rights. He also wished to know more about the Norwegian armed forces' participation in international military campaigns, including as to whether Norwegian soldiers had been involved in the alleged human rights violations committed by international military personnel in Afghanistan.

31. **Ms. Gaer** asked what specific measures had been adopted to ensure that there would be adequate prison places available in Norway once the three-year prisoner transfer arrangement with the Netherlands came to an end.

32. Non-governmental organizations (NGOs) had raised a number of points concerning the State's action to combat gender-based violence against women. According to Amnesty International, for example, judges, prosecutors and lawyers appeared to receive little training in that area, which might go some way to explaining the relatively low rate of conviction in cases brought to court. She asked whether the State party planned to enhance training for that group.

33. There were also reports that the weakness of police investigation into cases of rape and gender-based violence hampered access to justice. Photographic and other evidence was not always taken into account or presented, which resulted in a low rate of prosecution. The fact that the relevant provisions of the Penal Code did not meet international standards seemed to be another factor making it possible for such offences to go unpunished.

34. Thus there appeared to be a lack of due diligence on the part of the State in prosecuting gender-based violence. She would appreciate the delegation's comments on those concerns. She also wondered how the State party had followed up on the Committee's previous recommendation to broaden awareness-raising for legal professionals and others who worked with victims. Did the police training curriculum specifically cover rape and gender-based violence? She would like to know how the State party intended to ensure access to justice and reparation for victims. Had any public official ever been disciplined for failure to conduct a proper investigation or preserve evidence in such cases?

35. According to a recent article in a Bergen newspaper, an inmate of Bergen prison had been held in solitary confinement for a total of 1,700 hours in the past two years. Had any investigation taken place to ascertain how such an extreme case was possible? Were any rehabilitative or reparative measures available to the individual concerned? Another newspaper had reported that a 15-year-old girl had been held in solitary confinement. She would appreciate the delegation's comments on those two specific cases and on the compatibility of such practices with the Convention.

36. Referring to the Committee's general comment No. 3, on the implementation of article 14 by States parties, and in particular the concept of "as full rehabilitation as possible", she wondered whether the State party intended to develop a national plan to ensure that mental health care was available to victims of torture or ill-treatment. The Committee set particular store by the notion of a national plan and multidisciplinary teams, as being preferable to a piecemeal approach, whereby it was left to individual clinics to provide such care. She wondered what measures were in place to ensure specialist health care for survivors of torture and to strengthen existing rehabilitation services.

37. According to a report received by the Committee, entitled "We shall overcome", certain women with disabilities were being subjected to forced abortion or sterilization. She would welcome the delegation's comments on those allegations and statistics on such procedures.

38. **Ms. Racu** said that, with regard to detention in police facilities, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had noted that in Bergen, for example, most of the police cells had no windows and most of the inmates were allowed no outdoor exercise — a matter of particular concern given that some of the detainees had been held for as long as nine days. Moreover, many of those interviewed had complained that they had not been given any personal hygiene products or been offered a shower. She wondered whether there had been any improvements in that regard during the reporting period, notably in respect of budget allocations and refurbishment of premises.

39. **Mr. Hani** noted that, according to the State party's report, the Directorate of Health guidance on health services for asylum seekers and refugees recommended that municipalities should provide a medical examination within three months. He wondered whether that time frame was arbitrary or based on scientific evidence. He pointed out that anyone who had suffered torture ought not to wait but should receive immediate treatment.

40. He also noted that refugees and asylum seekers could be denied referral to psychiatric centres where therapists were unused to treating persons of different backgrounds, and also because it was not considered expedient to start treating persons whose residence status was uncertain. He therefore wondered where such individuals could expect to obtain treatment.

41. In assessing the need for specialist mental health care among persons exposed to trauma, the report stated that weight should be attached to the severity of the symptoms rather than the seriousness of the event. He wondered what the scientific basis was for such a directive. In the face of extraordinary difficulties, many asylum seekers and refugees developed a degree of resilience that made it difficult for primary health centres to detect deeper trauma. He wondered whether there were specific guidelines for dealing with any torture victims detected among asylum seekers.

42. **The Chair** said that the national preventive mechanism had found, on a visit to the police immigration detention centre at Trandum, that local physicians, who provided general medical services at the centre, were becoming involved in decisions relating to isolation of detainees. That was a violation of both the United Nations Standard Minimum Rules for the Treatment of Prisoners and general medical ethics. In itself, the involvement of local physicians was a progressive move and fully in line with trends elsewhere in Europe, but it required stronger regulation of the prison health service. He wondered whether general practitioners were fully aware of the kind of issues that arose in the area of prison health or of the problematic nature of procedures such as solitary confinement. How did the State party ensure that physicians actually had the knowledge required to provide health care in prisons and that they would not exceed their authority?

43. **Mr. Kleppen Sættem** (Norway) said that Norgerhaven prison in the Netherlands had been leased purely in order to deal with the queue of convicted persons waiting to serve their sentences. There was no longer any waiting time and the prison would therefore close in September 2018.

44. **Mr. Kjelsberg** (Norway) said that, as a general principle, domestic legislation in Norway must be interpreted in accordance with international law, whether or not the relevant provisions had been incorporated into domestic law. Consequently, his Government did not plan to extend the list of human rights conventions incorporated into Norwegian law through the Human Rights Act. Furthermore, under article 92 of the Constitution, State authorities were required to respect all human rights prescribed in the treaties that were binding on Norway. Overall, the Government believed that the Convention was effectively implemented in domestic law.

45. As to the definition of torture, given that, in accordance with the legality principle, the elements of any criminal offence should be formulated as precisely as possible, an enumeration of the relevant types of discrimination might be more appropriate than a replication of the exact wording of the Convention. In the Government's view, Norwegian criminal law fully complied with the Convention, which required each State party to ensure that all acts of torture were offences under its criminal law.

46. With regard to the legal definition of rape, a proposal to amend section 291 of the Penal Code, circulated in 2013, had failed to obtain a consensus. In March 2018 Parliament had rejected a motion to request the Government to propose an amendment to the legal definition of rape. In the Government's view, the penalties provided for by the Penal Code complied with the State's international obligation to provide effective, proportionate and dissuasive sanctions against sexual violence.

47. **Ms. Hellevik** (Norway) said that Norway had as yet no specific regulation on the use of electroconvulsive therapy (ECT), though in June 2017 the Directorate of Health had issued national guidelines. An expert panel, which included users' organizations, had evaluated the state of the art in respect of the direct effects and side effects of ECT and had concluded that the method could save lives and that its use without consent should therefore be permitted in certain emergency situations, such as severe depression and other conditions that could result in serious harm were such therapy not to be applied. It must be used as a last resort, and less intrusive measures must be tried first and deemed insufficient.

The guideline also stressed that, in deciding to start ECT without valid consent from the patient, a physician must always consult with another qualified health professional.

48. In addition, a legislative committee was reviewing the rules on coercion in all health or care services in Norway. On the one hand it appeared important to have a clear legal basis for decisions, but on the other hand there was a concern that such specificity could result in more use of ECT without the patient's consent. Strict criteria for involuntary ECT must therefore be established. The Directorate of Health had recently asked all supervisory commissions in the mental health system to review all decisions to use ECT without the patient's consent and the legality of such incidents would be examined by an independent external body. That exercise would also yield statistics on the practice, and, from 2019, all hospitals would be required to report such decisions to the National Patient Registry.

*The meeting rose at 12.45 p.m.*